Legal

May 2018 quarterly check-in

WIKIMEDIA

F O U N D A T I O N

Our department programmatic work

Defense of Content & Communities

Transparency Report

Fellowship Program

Promoting Free Culture
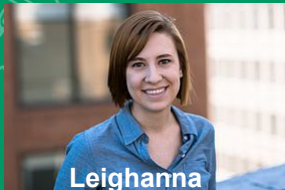
Public Policy

Our cross-department programs

Wikimedia Brand & Identity

Community Health

Privacy, Security, and Data Management

LEGAL TEAM

Katie

Chuck

Rachel

Stephen

Eileen

Jim

Tony

Aeryn

Purrrrrcy

Leighanna

Jacob

Jan

Program Highlights

WMF v. National Security Agency

Challenging US electronic surveillance of internet traffic, including Wikipedia requests. Intensive fact discovery period ran through until mid-April, 2018. Depositions held in D.C. in early April. Expert declarations and motions and briefing in next months.

WIKIMEDIA FOUNDATION

ILLUMINATE THE DARKNESS

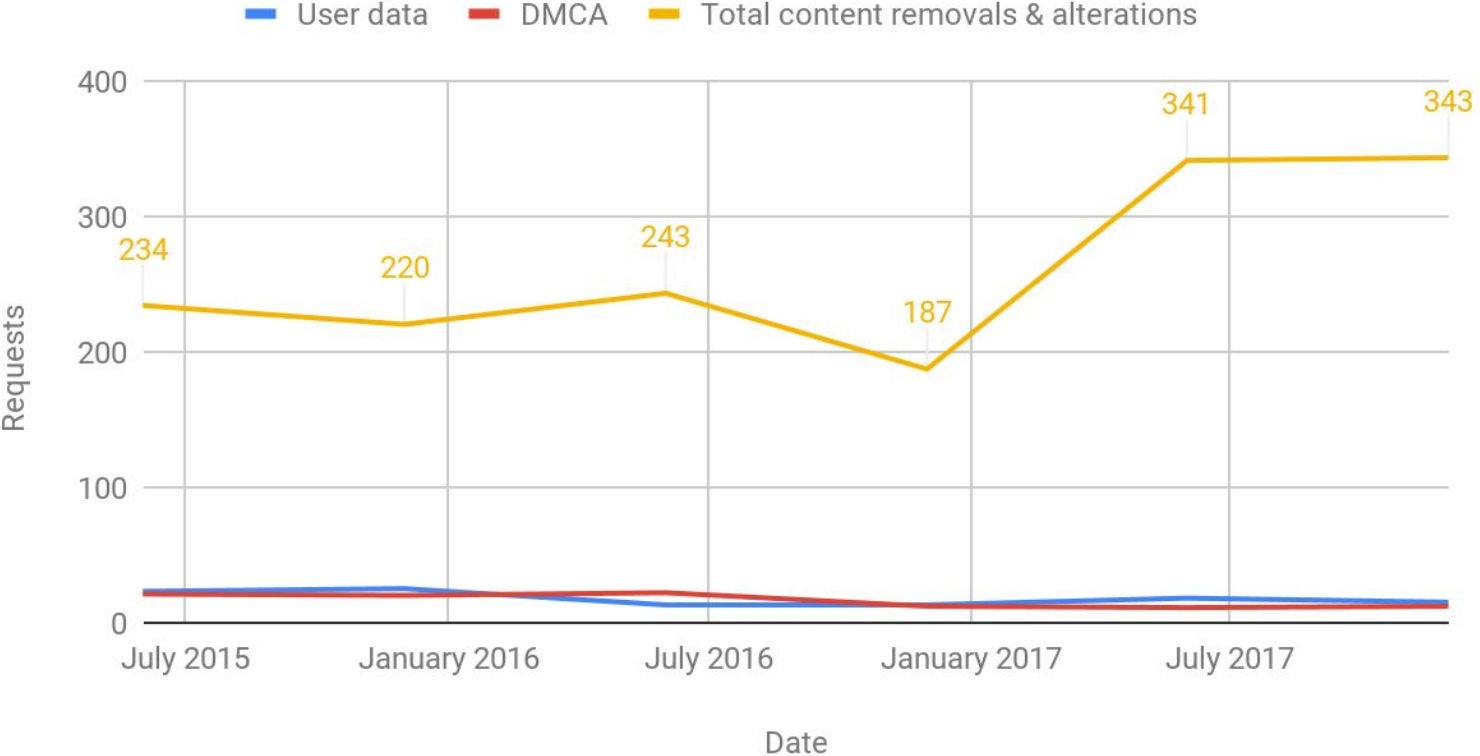SURVEILLANCE IS A SHADOW ON FREEDOM

Global Litigation

Support for community members in key legal cases:

Wins in cases Italy and Greece defending free expression.

Challenges in Switzerland, France.

Transparency Report Trends

Transparency Report

Positive press coverage for latest edition, covering July-December 2017.

WIKIMEDIA
F O U N D A T I O N

Transparency Report 1 by
ADavenport (WMF),
CC-BY-SA 4.0

Trademarks & Domain Names

Q3:
- Had trademark portfolio review meeting with outside counsel

Q4:
- Anticipating changes to WHOIS database as a result of new EU privacy law (GDPR); may affect trademark enforcement work

(Delayed) Move to Creative Commons Attribution- ShareAlike 4.0

Fellow Program

Welcoming Summer Fellows

New year-long Tech Law and Policy Fellow

Ford-Mozilla Open Web Fellowship

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FOUNDATION

CHECK IN
May 2018

TEAM/DEPT
Legal

PROGRAM
Public policy

- **Intermediary liability**
  - **Yale Affiliation**
- **Input on laws in Canada, India**
- **Continued support for Turkey campaign**

Interior view of Stockholm Public Library by Marcus Hansson CC BY 2.0

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Employment and Immigration

Visa work goes well

Participation in diversity & inclusion groups & events

Whistleblower line: no reports

Open Job Description for a new legal hire

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№ 00014 C/39   13

Training

Brought in trainers to the Foundation for the benefit of multiple teams: critical thinking, management training, employment and labor law

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Board Support

Supported and presented at meetings. GC is Secretary to Board

Working with Chief of Staff to improve meeting preparation and other processes related to Board support.

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Questions?

WIKIMEDIA
FOUNDATION

Appendix: Detailed Slides

WIKIMEDIA
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Cross-Department Programs

Program:
Wikimedia Brand and Identity

Segment 2:
Trademarks

May 2018   **Legal** ([Segment 2](#))   [Brand and Identity](#)

OUTCOME: Have the rights and tools necessary to protect the brand.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
File, maintain, and defend trademark registrations worldwide	**LAST QUARTER**	
	- Jones Day (our outside trademark counsel who helps maintain registrations worldwide)	- Met with Jones Day to review our trademark portfolio and discuss medium- and long-term plans for trademark registrations
	NEXT QUARTER	
	- Jones Day	- Maintain trademark registrations worldwide, and defend them against wrongful legal and administrative challenges, including those from government offices and third parties globally.

STATUS: OBJECTIVE IN PROGRESS

May 2018   **Legal** ([Segment 2](#))   [Brand and Identity](#)

OUTCOME: Have the rights and tools necessary to protect the brand.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
File, maintain, and defend domain name registrations	**LAST QUARTER**	
	- MarkMonitor (service provider for managing domains) - Porkbun (registrar for .wiki domains)	- Maintained domain name portfolio
	NEXT QUARTER	
	- MarkMonitor	- Continue to maintain domain name portfolio

STATUS: OBJECTIVE IN PROGRESS

May 2018   **Legal** ([Segment 2](#))   [Brand and Identity](#)

OUTCOME: Third-party uses of the Wikimedia brands align with our mission and brand goals.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Facilitate mission-aligned community and external uses of Wikimedia marks through our trademark policy and by granting trademark licenses	**LAST QUARTER**	
	- Communications - Community Resources	- Reviewed requests to use trademarks and drafted licenses when uses furthered or promoted the mission
	NEXT QUARTER	
	- Partnerships & Global Reach - Communications	- Continue reviewing permission requests and draft licenses as appropriate to allow mission-aligned uses of the marks

STATUS: OBJECTIVE IN PROGRESS

OUTCOME: Prevent misuse of the Wikimedia brand.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Send cease and desist notices and file complaints in response to trademark infringement	**LAST QUARTER**	
	- MarkMonitor (service provider for identifying infringement)	- Sent cease and desist letters to those misusing Wikimedia trademarks - Filed complaints through domain name dispute resolution procedures - Pursued trademark infringement associated with paid editing listings
	NEXT QUARTER	
	- MarkMonitor	- Continue to send cease and desist letters and initiate domain name disputes to curb misuse of trademarks - Monitor for potential changes to WHOIS database in response to GDPR, and respond accordingly

STATUS: OBJECTIVE IN PROGRESS

Department Programs

Defense of
Content & Communities

WIKIMEDIA
FOUNDATION

GOAL: Protect the Wikimedia Foundation, the Wikimedia communities and content, and the free knowledge movement broadly from legal threats

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
Defend against legal threats to the Foundation and Wikimedia content	**LAST QUARTER**	
	- SuSa - Outside counsel - Comms	- Legal defense of WMF in the U.S. and worldwide - Targeted legal action against threats to the movement - Timely, professional responses to legal threats, takedown demands, and government orders.
	NEXT QUARTER	
	- SuSa - Outside counsel - Comms	- Continue defending against litigation and legal threats brought against the Foundation or good-faith community members

STATUS: OBJECTIVE IN PROGRESS

May 2018 **Legal**

GOAL: Protect the Wikimedia Foundation, the Wikimedia communities and content, and the free knowledge movement broadly from legal threats

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
File amicus briefs and engage in proactive litigation where appropriate to protect the Wikimedia movement (Part I)	**LAST QUARTER**	
	- Audiences - CE - Comms - OIT - Technology - Outside Counsel	- Discovery continued in *Wikimedia v. NSA* - Joined two amicus briefs, focusing on right of publicity and restrictions on traveling to the United States - Continued finding and assessing impactful amicus opportunities

GOAL: Protect the Wikimedia Foundation, the Wikimedia communities and content, and the free knowledge movement broadly from legal threats

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
File amicus briefs and proactive litigation where appropriate to protect the Wikimedia movement (Part II)	**NEXT QUARTER**	
	- CE - Outside Counsel - Comms	- Discovery in *WMF v. NSA* - intensive fact discovery through mid-April involving cross-departmental staff; expert declarations and motion practice next few months - Continue public advocacy on key areas of the law that support the editorial discretion of the Wikimedia communities

STATUS: OBJECTIVE IN PROGRESS

Transparency Report

GOAL: To publish two Transparency Reports, July/Aug. 2017 and Jan./Feb. 2018

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Publication of biannual Transparency Report	**LAST QUARTER**	
	- Comms, SuSa	- Released updated edition of the report in early March, covering requests from July-December 2017
	NEXT QUARTER	
	- Outside engineering contractor - Comms - SuSa	- Continue distributing print report (updated with new data insert) - Begin preparing next report, to be released at Wikimania

STATUS: DONE

Fellowship Program

GOAL: Recruit a class of top fellows each semester who provide the Foundation with high-quality legal work and are passionate about the opportunity to learn about the Wikimedia movement.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Have 3-7 legal fellows participate in the program each semester with an opportunity to advance the Wikimedia values, and maintain strong relationships with academic institutions	**LAST QUARTER**	
	- Talent and Culture	-Completed summer recruiting -Welcomed Allison Davenport back as a new Tech Law and Policy fellow for the next year -Accepted to host Ford-Mozilla policy fellow
	NEXT QUARTER	
	- Talent and Culture	- Begin fall recruiting

STATUS: OBJECTIVE IN PROGRESS

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What you learned from the fellow program:

Did anything unexpected (good or bad) happen?

We were accepted to host a Ford-Mozilla Policy Fellow, helping to further expand our capacity over the coming year. This is our first successful application for this fellowship. This fellow will focus on our response to censorship, and data-driven advocacy for Wikipedia's openness.

What would you do differently if you had to do it again?

N/A

Did you struggle with anything?

N/A

Promoting Free Culture

WIKIMEDIA
FOUNDATION

CHECK IN
May 2018

TEAM/DEPT
Legal

PROGRAM
None

GOAL: Provide core legal support for the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
Update Wikipedia copyright license to Creative Commons 4.0 [delayed from last FY]	**LAST QUARTER**	
		None
	NEXT QUARTER	
		Coordinating with the Technology and Audiences teams on license upgrade for text. Some complexities and will need to be queued appropriately in terms of impact hierarchy and level of effort.

STATUS: Delayed

Public Policy

Governments focus on platform liability for user-generated content

- Regulatory and legislative pressure on platforms to police user-generated content
- Range of targeted content is getting broader, includes misinformation, extremism, copyright, etc.
- Regions with emerging communities are increasingly producing concerning public policy.

מנו ספנות (CC0)

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

Program 4

Topic	Activities
Intermediary liability	● Submitted letter to the European Commission commenting on its initiative to tackle illegal content online. ● Joined letter of academics and advocates urging NAFTA negotiators to include intermediary liability protections in the new treaty. ● Signed coalition letter (coordinated by startup advocacy group Engine) expressing concern about the potential impact of FOSTA (US Congress) on online platforms.
Access to knowledge	● Submitted comments and a letter to the Committee of Experts for a Data Protection Law for India explaining the importance of balancing privacy and access to knowledge in the implementation of a new right to be forgotten. ● Participated in Conectados al Sur symposium in Costa Rica, which focused on inclusion of youth and children online in Latin America. ● Participated in the 2nd Internet & Jurisdiction Conference, advocating for an internet without borders, in which users in different countries would have access to different kinds of content. Also briefed ED for her intervention at the conference. ● Hosted and organized a panel at SXSW on the effects of global content removals on access to knowledge online.

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

Program 4

Topic	Activities
Freedom of expression	● Ongoing issues in Turkey.
Privacy	● The Internet Freedom Festival, a yearly gathering of academics, technologists, lawyers, and activists working on issues of censorship and surveillance.
Copyright	● Submitted an intervention to the Canadian telecommunications regulator regarding a proposal that would require internet service providers to block "piracy sites" that engage in copyright infringement.

GOAL: Articulate positions on all public policy issues that are critical for the mission and operations of the Foundation/Wikimedia projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
Monitor and assess ongoing policy developments worldwide, including issues that may affect other teams	**LAST QUARTER**	
	- Comms	- Spoke at high-profile conference on content moderation by internet platforms, explaining the Wikimedia model and highlighting the quality of the community's work in removing harmful and illegal content from Wikipedia. - At various conferences, expressed our concerns about the negative effects of extraterritorial jurisdiction and global removals of content from the internet on access to knowledge.

GOAL: Articulate positions on all public policy issues that are critical for the mission and operations of the Foundation

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
Monitor and assess ongoing policy developments worldwide, including issues that may affect other teams	**NEXT QUARTER**	
	- Comms	- With European community members, publish blog posts on copyright reform in the EU and our views on the implementation of AI to police platforms.

STATUS: OBJECTIVE IN PROGRESS

GOAL: Local Wikimedia communities are empowered to work towards policy change

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
Publish updates and resources on the Wikimedia public policy page, mailing list, and other venues	**LAST QUARTER**	
	- Comms - Travel	- Sent regular updates about policy issues to the public policy list to inform the communities and allies about our policy work

May 2018 **Legal**

GOAL: Local Wikimedia communities are empowered to work towards policy change

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
Publish updates and resources on the Wikimedia public policy page, mailing list, and other venues	**NEXT QUARTER**	
	- Comms	- Participate in ESEAP Conference 2018 to engage with Asian communities and discuss their public policy work. - Send out updates to public policy list to keep volunteers informed about our work

STATUS: OBJECTIVE IN PROGRESS

GOAL: Support Wikimedia communities around the world in resisting government censorship efforts, and increase people's ability to access and participate in the Wikimedia projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
Create and maintain informational resources to help empower Wikimedia communities in anti-censorship efforts	**LAST QUARTER**	
	- Comms - Travel	Continued support around Turkey block

GOAL: Address issues of future importance to the projects

What is your objective / workflow?	Who are you working with?	What impact / deliverables are you expecting?
Develop and maintain censorship monitoring capabilities in at-risk countries around the world	**NEXT QUARTER**	
	- Comms - Civil liberties organizations, censorship researchers, and at-risk communities	- Publish update to the public policy site to ensure it reflects the most recent developments - Publish policy resource on non-commercial clauses to provide a clear, accessible explanation of why adding it to new copyright exceptions is harmful for free knowledge (moved from Q1)

STATUS: OBJECTIVE IN PROGRESS

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October 2017 **Legal**

What you learned doing public policy:

Did anything unexpected (good or bad) happen?

We increased our engagement on CDA 230, in response to the progress (and eventual passage) of SESTA/FOSTA in the US Congress. This is the first incursion against the protections offered by CDA 230, upon which we depend. We are evaluating how we should increase Wikimedia's voice in future legislative actions in the US that affect our mission.

What would you do differently if you had to do it again?

-

Did you struggle with anything?

We struggle with a lack of available research on community removal of illegal content on our projects, and with a lack of resources to commission that research. A better understanding of the processes of detecting and removing of harmful or illicit content on our platform would allow us to make better, more compelling policy arguments.

Department Non-Programmatic Work

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FOUNDATION

Employment Law & Immigration Support

WIKIMEDIA
FOUNDATION

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Retention of H1-B visa cap exemption

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Maintain ability to obtain and renew H1-B visas so that we can recruit staff from around the world	**LAST QUARTER**	
	- educational institutions, outside immigration counsel	- Successfully obtained & renewed H1-B visas
	NEXT QUARTER	
	- educational institutions, outside immigration counsel	Revise materials to support visa process

STATUS: OBJECTIVE IN PROGRESS

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CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Compliance with applicable employment and labor laws and risk mitigation

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Monitor changes to employment and labor laws and update policies and practices as needed	**LAST QUARTER**	
	- T&C	-Advised on several personnel issues -Advising on revisions to several employment terms consistent with law, regs and best practices
	NEXT QUARTER	
	- T&C	-Update and streamline employment agreements to comply with changes in IP law (moved to Q4) - review employment policies and evaluation process - Conduct risk analysis

STATUS: OBJECTIVE IN PROGRESS

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CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Staff and contractors having ability to relocate and travel freely in relation to their work at the Foundation.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Process visa applications and immigration issues as they arise.	**LAST QUARTER**	
	- T&C	*Advised on hiring contractors in various countries*
	NEXT QUARTER	
	- T&C	*As needed*

STATUS: OBJECTIVE IN PROGRESS

Fundraising Law & Compliance Support

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May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Compliance with global fundraising laws.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Maintain charitable organization registrations in all states	**LAST QUARTER**	
	- Labyrinth	- Nothing new
	NEXT QUARTER	
	- Labyrinth	- Begin filing applications

STATUS: OBJECTIVE IN PROGRESS

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Maintenance of strong and growing Endowment.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Provide legal support and advice for maintenance of Wikimedia Endowment	**LAST QUARTER**	
	- Advancement	- Provided ongoing support of the Endowment
	NEXT QUARTER	
	- Advancement	- Same, including analysis of various structures - Provide presentation of history, funding, structure of Endowment to Board

STATUS: OBJECTIVE IN PROGRESS

Contracts

May 2018 **Legal** None

OUTCOMES: Consistent and searchable recordkeeping, with streamlined creation, review, and approval of contracts; risk mitigation through contractual provisions

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Draft, review, and negotiate contracts to protect the Foundation and mitigate risk; Maintain a robust contracts program and process in collaboration with Finance and Administration	**LAST QUARTER**	
	- All departments needing contracts - Finance & Administration - Outside vendors	- Protected WMF and minimized risk through contractual agreements
	NEXT QUARTER	
	- All departments needing contracts - Finance & Administration - Outside vendors	- Continue to protect WMF and minimize risk through contractual agreements

STATUS: OBJECTIVE IN PROGRESS

Board Support

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Organized and productive Board meetings

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Organized and productive Board meetings	**LAST QUARTER**	
	- ED - Board leadership	- Supported Board informational session on January 29 - Supported Board meeting on March 27 - Supported Board committees
	NEXT QUARTER	
	- ED - Board leadership - Chief of Staff	- Support Board meeting on April 19 (at Wikimedia Conference) - Support Board meeting on June 12 (online) - Prep for Wikimania board meeting (July 2018) - Work with Chief of Staff to improve meeting preparation processes - Support Board committees

STATUS: OBJECTIVE IN PROGRESS

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Organized and productive Board meetings

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Take and publish official Board meeting minutes, and maintain other Board records	**LAST QUARTER**	
	- Board	- Minutes published for the November meeting
	NEXT QUARTER	
	- Board	- Publish minutes for the March meeting - Publish minutes for the April meeting - Prepare resolutions as needed

STATUS: OBJECTIVE IN PROGRESS

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Prepared and informed Board members

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Prepare and conduct legal trainings, as needed	**LAST QUARTER**	
		None.
	NEXT QUARTER	
		- Provide legal training and orientation to Esra'a (from Q3)

STATUS: OBJECTIVE IN PROGRESS

OUTCOME: Prepared and informed Board members

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Advise Board on significant legal risks and mitigation strategies	**LAST QUARTER**	
		None.
	NEXT QUARTER	
		- Provide risks and mitigation document and presentation at the April meeting in Berlin

STATUS: OBJECTIVE IN PROGRESS

Copyright Clearance

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Legally compliant media produced.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Provide timely, clear, and helpful advice on the copyrighted works used in Foundation media	**LAST QUARTER**	
	- Comms	- Provided legal review for publications
	NEXT QUARTER	
	- Comms	-Continue assisting as needed

STATUS: OBJECTIVE IN PROGRESS

General Legal Advice & Support

WIKIMEDIA
FOUNDATION

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

OUTCOME: Organizational legal compliance, best practices, and risk mitigation achieved.

What is your objective?	Who are you working with?	What impact / deliverables are you expecting?
Provide timely, innovative, and effective legal advice and support to all departments as needed	**LAST QUARTER**	
	- Advancement - Comms - Finance and Administration - Audiences - Tech - CE - Partnerships & Global Reach	Conducted thorough research and provide pragmatic legal and policy advice to all teams as needed, for example: - Reviewed media inquiries with legal components - Provided product counseling - Continued advice on grantmaking in sensitive jurisdictions - Worked with SuSa team on legal review and approval of several global bans - Work on privacy, security
	NEXT QUARTER	
	Same	Same

STATUS: OBJECTIVE IN PROGRESS

CHECK IN

May 2018

TEAM/DEPT

Legal

PROGRAM

None

DEVIATIONS FROM PLANS

Currently postponed lower-priority projects
- Publishing public policy resources on non-commercial clauses remains postponed due to insufficient team resources.
- Map of organizations supporting policy in the Wikimedia movement was postponed due to a dependency on Comms' implementation of an updated CRM system.

Postponed due to insufficient resourcing and high impact projects higher in queue:
- Upgrade to Creative Commons 4.0